claim is properly in tort for the breach of the duty which a telegraph company, as a public servant, owes to its patrons. *Hellams* v. *Western Union Tel. Co.*, 70 S. C. 83, 49 S. E. 12; *Western Union Tel. Co.* v. *Dubois*, 128 Ill. 248, 21 N. E. 4. Accordingly, his concurring illegality, on ordinary principles of the law of torts, will be no bar to his recovery, unless it contributed as a proximate cause to the injury. *Newcomb* v. *Boston Protective Department*, 146 Mass. 596, 16 N. E. 555; *Gross* v. *Miller*, 93 Ia. 72, 61 N. W. 385. But if the only right interfered with is the right to security in some illegal transaction, the plaintiff will be denied recovery. *Stockdale* v. *Onwhyn*, 5 B. & C. 173; *Fivaz* v. *Nicholls*, 2 C. B. 501. Again, the plaintiff will not be allowed to recover for the violation by the defendant of the duties of a relationship, if those duties exist only in connection with an illicit undertaking. *Turner* v. *North Carolina Ry. Co.*, 63 N. C. 522; *Levy* v. *Kansas City*, 168 Fed. 524. But *cf. Western Union Tel. Co.* v. *Ferguson*, 57 Ind. 495. Analogously, since in the principal case the duty of secrecy owed by the telegraph company to the plaintiff as addressee of the telegram was violated only in regard to the plaintiff's illegal transactions, he is rightly denied recovery. In so far as the message was false, his redress is in libel; in so far as it was true, no recovery should be granted. This conclusion is supported by the fact that had the defendant contracted not to disclose the plaintiff's immoral transactions, the contract could not have been enforced. *Hatch* v. *Mutual Life Ins. Co.*, 120 Mass. 550. See also *Aycock* v. *Braun*, 66 Tex. 201, 18 S. W. 500.

VENDOR AND PURCHASER — REMEDIES OF VENDOR — RIGHT TO SUE FOR DEFICIENCY AFTER STRICT FORECLOSURE. — The purchaser in a contract for the sale of land paid only a part of the first instalment, and failed entirely to pay the second. The vendor then commenced this action for the overdue instalments, but while it was pending obtained a final decree of strict foreclosure. *Held*, that he cannot recover. *Waite* v. *Stanley*, 92 Atl. 633 (Vt.).

A vendor who retains the legal title as security usually enforces his rights through foreclosure by sale. *Aycock Bros. Lumber Co.* v. *First National Bank of Dothan*, 54 Fla. 604, 45 So. 501; *Walker* v. *Casgrain*, 101 Mich. 604, 60 N. W. 291. If the proceeds of the sale are less than the amount of the debt the vendor will then be entitled to recover the difference either by deficiency judgment or in a separate action. *Blumberg* v. *Birch*, 99 Cal. 416, 34 Pac. 102. See *Fayette Land Co.* v. *Louisville & Nashville R. Co.*, 93 Va. 274, 283, 24 S. E. 1016, 1017. Strict foreclosure, since it usually involves hardship to the vendee, should only be granted under exceptional circumstances. *Harrington* v. *Birdsall*, 38 Neb. 176, 56 N. W. 961; *Flanagan Estate* v. *Great Central Land Co.*, 45 Ore. 335, 77 Pac. 485. In view of the small part of the purchase price actually paid in the principal case, the decree of strict foreclosure was probably proper. But it seems impossible to sustain this additional action for unpaid instalments. It is true that some jurisdictions hold that strict foreclosure of a mortgage operates as a discharge of the debt only to the extent of the mortgaged property. See *Edgerton* v. *Young*, 43 Ill. 464, 470; *Hunt* v. *Stiles*, 10 N. H. 466, 469; JONES, MORTGAGES, 6 ed., § 1567. But even this theory would not permit the vendor to recover more than the deficiency remaining unsatisfied after the return of the property. The analogy, furthermore, is misleading. Recovery in the mortgage cases may be justified on the ground that the land is merely security, and that it should no more satisfy a debt of greater amount under strict foreclosure than under foreclosure by sale. But a vendor who obtains a strict foreclosure has ended the contract and should be unable thereafter to recover against the purchaser. In a few jurisdictions strict foreclosure alone is open to the vendor who has retained the legal title as security. *Todd* v. *Simonton*, 1 Colo. 54; *Button* v. *Schroyer*, 5 Wis. 598. But even in such jurisdictions recovery of the deficiency should not be allowed, for any resulting

hardship to the vendor arises from the initial mistake of refusing a foreclosure by sale.

WITNESSES — PRIVILEGE AGAINST SELF-INCRIMINATION — EFFECT ON PRIVILEGE OF AN UNACCEPTED PARDON. — A witness before the federal grand jury refused to answer certain questions upon the ground that it would tend to incriminate him. He was handed a pardon from the President of the United States granting full and unconditional pardon for all offences which he had or might have committed in connection with any matter to which he might testify. He refused to accept the pardon or answer the questions. He was then adjudged guilty of contempt. *Held*, that this judgment be reversed. *Burdick* v. *United States*, 236 U. S. 79, 35 Sup. Ct. 267.

For a discussion of the effect of an unaccepted pardon upon the privilege against self-incrimination, see NOTES, p. 609.

BOOK REVIEWS

THE ANTI-TRUST ACT AND THE SUPREME COURT. By William H. Taft. New York: Harper and Brothers. 1914. pp. 133.

The law of restraint of trade and monopoly is founded on public policy. The rules of public policy vary of necessity according to conditions prevailing in different countries and in different periods. The English courts, while declaring that all restraints upon trade are illegal unless reasonable, yet have sanctioned a large measure of freedom of contract between buyer and seller. A liberal test of reasonableness was therefore adopted, and whether by reason of the general acceptance of this policy or of different economic conditions, the higher English courts have not until very recently passed upon the validity of the modern combination to regulate prices, and have not yet declared any such illegal. In contrast with the comparatively simple rules of the English common law to determine the legality of the covenant of the seller of a business or of a partner or employee not to reëngage in business and the simple undoing of such contracts by the refusal of the courts to enforce them, are the decisions of our state and federal courts holding that combinations which have acquired power to regulate prices, restrict output and divide territory, or otherwise unduly restrict competition, are illegal; and under power, usually aided by statute, to grant affirmative relief, ordering their dissolution and the restoration of competitive conditions. The American courts, while starting with the rules of the English common law, have developed a body of law of distinctly American origin based upon a public policy of furthering competition, in which the decisions of the Supreme Court of the United States recognizing, as it were, a national policy, have become of great, if not controlling, importance.

It is this body of law, involved in conflicting economic theories, opposing views of public policy and grave issues of constitutional power, yet so vitally affecting the people of the nation, to which the author addresses this book. As its title indicates, Mr. Taft's book is an exposition of the decisions of the Supreme Court interpreting the Sherman Anti-Trust Law. It is a series of legal essays, beginning with a brief but intelligible outline of the common law beginnings and the constitutional background of the statute, and explaining the effect of each of the major decisions and justifying the principles ultimately established by the court. To a lawyer desiring to ascertain the present status of the law, after a period of rulings by divided courts and some undoubted changes of view, it is a presentation of breadth and candor and accuracy. The author's choice of a publisher indicates that the book is also intended for the